

## **REMARKS**

In the last Office Action, the Examiner objected to claims 94-96; rejected claims 47-49 and 75-77 under 35 U.S.C. § 112, 2<sup>nd</sup> paragraph; rejected claims 31-33, 42, 58, 60, 61, and 70 under 35 U.S.C. § 102(b) as being anticipated by Katayama et al. (U.S. Patent No. 4,923,586); rejected claims 50-57 under 35 U.S.C. § 103(a) as being unpatentable over Katayama et al.; appears to have rejected claim 114 under 35 U.S.C. § 102(b) as anticipated by Katayama et al.; rejected claims 34-41, 44, 45, 62-65, 67-69, 72, 73, 97-99, 101-104, 106-108, 110, 111, and 113 under 35 U.S.C. § 103(a) as being unpatentable over Katayama et al. in view of Ho et al. (U.S. Patent No. 5,552,053); rejected claims 43, 46, 71, 74, 90, 93, 98, 110, and 113 under 35 U.S.C. § 103(a) as being unpatentable over Katayama et al. in view of Ho et al. and further in view of Markell et al. (U.S. Patent No. 5,328,758); indicated that claims 38 and 66 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims; and allowed claims 78, 80-93, 100, 105, 109, 111, and 112.

By this Reply, Applicants have amended claims 31, 35, 36, 47-50, 55, 58, 63, 64, 75-78, 82, 83, 94-96, and 114. Claims 1-30, 59, 79, 97-99, 101-104, 106-108, 110, and 113 have been cancelled without prejudice or disclaimer of the subject matter thereof.

Applicants respectfully traverse the objection to claims 94-96. By this Reply, claims 94-96 have been amended in accordance with the Examiner's suggestions. Therefore, Applicants submit that the objection to claims 94-96 should be withdrawn.

Applicants respectfully traverse the rejection of claims 47-49 and 75-77 under 35 U.S.C. § 112, 2<sup>nd</sup> paragraph. By this Reply, claims 47-49 and 75-77 have been amended to clarify the claim elements. Applicants respectfully submit that claims 47-49

and 75-77 comply with the provisions of 35 U.S.C. § 112, 2<sup>nd</sup> paragraph, and accordingly, the rejection of these claims should be withdrawn.

Applicants respectively traverse the rejection of claims 31-33, 42, 58, 60, 61, and 70 under 35 U.S.C. § 102(b) as being anticipated by Katayama et al. because Katayama et al. fails to disclose every claim element. For example, independent claim 31 recites a combination of elements including, *inter alia*, a passive sampling device for accumulating over a period of time micropollutants from an aquatic environment. Similarly, independent claim 58 recites a combination of elements including, *inter alia*, a passive sampling device for accumulating over a period of time non-polar, organic micropollutants from an aquatic environment. Katayama et al. fails to disclose at least these claim elements.

Unlike the presently claimed embodiments, the device disclosed by Katayama et al. is not a passive sampling device for accumulating micropollutants over a period of time. Rather, the device of Katayama et al. is an active measurement device for measuring the concentration of substances such as glucose. Particularly, in order to obtain a concentration value, the device of Katayama et al. applies a predetermined bias voltage across a pair of electrodes using an electrode bias device. (col. 5, lines 35-41.) Analyzing the electrical behavior of circuitry associated with the measurement probe enables a determination of the concentration of the target substance. (col. 6, lines 25-43.)

Such operation, however, is not consistent with a passive sampling device. The presently claimed embodiments function by accumulating micropollutants in a receiving

phase over time. No electrical bias voltages or other electrical signals are applied in the presently claimed passive sampling device.

Because Katayama et al. fails to disclose every claim element, the Section 102(b) rejection of claims 31-33, 42, 58, 60, 61, and 70 should be withdrawn.

Applicants respectively traverse the rejection of claims 50-57 under 35 U.S.C. § 103(a) as being unpatentable over Katayama et al. No *prima facie* case of obviousness has been established with respect to claims 50-57 for at least the reason that Katayama et al. fails to teach or suggest every claim element. For example, independent claim 50 recites a combination of elements including, *inter alia*, a passive sampling method for monitoring over a period of time the concentrations of micropollutants in a polluted environment, which method comprises: (a) providing a receiving phase having a sufficiently high affinity for the micropollutants for accumulating the micropollutants. Katayama et al. fails to teach or suggest at least these claim elements.

For example, as noted above, the device of Katayama et al. is not a passive sampling device. Rather, the device of Katayama et al. is an active measurement device that obtains a concentration value for a target substance by applying a predetermined bias voltage across a pair of electrodes and analyzing the electrical behavior of circuitry associated with the measurement probe. (col. 6, lines 25-43.) Nowhere does Katayama et al. disclose or even suggest the use of a passive sampling device or the accumulation of micropollutants in a receiving phase.

Because Katayama et al. fails to teach or suggest every claim element, the Section 103(a) rejection of claims 50-57 should be withdrawn.

Applicants respectively traverse the apparent rejection of claim 114 under 35 U.S.C. § 102(b) as anticipated by Katayama et al. because Katayama et al. fails to disclose every claim element. For example, claim 114 recites a combination of elements including, *inter alia*, placing a passive sampling device in contact with an aquatic environment and accumulating in the passive sampling device, a quantity of micropollutants from the aquatic environment. Katayama et al. fails to disclose at least these claim elements.

As noted above, the device of Katayama et al. is not a passive sampling device. Rather, the device of Katayama et al. is an active measurement device that obtains a concentration value for a target substance by applying a predetermined bias voltage across a pair of electrodes and analyzing the electrical behavior of circuitry associated with the measurement probe. (col. 6, lines 25-43.) Nowhere does Katayama et al. disclose or even suggest the use of a passive sampling device or the accumulation of micropollutants from the aquatic environment.

Because Katayama et al. fails to disclose every claim element, the apparent Section 102(b) rejection of claim 114 should be withdrawn.

Applicants respectively traverse the rejection of claims 34-41, 44, 45, 62-65, 67-69, 72, 73, 97-99, 101-104, 106-108, 110, 111, and 113 under 35 U.S.C. § 103(a) as being unpatentable over Katayama et al. in view of Ho et al. No *prima facie* case of obviousness has been established with respect to claims 34-41, 44, 45, 62-65, 67-69, 72, 73, 97-99, 101-104, 106-108, 110, 111, and 113 for at least the reason that no combination of Katayama et al. and Ho et al. teaches or suggests every claim element. For example, independent claim 31, upon which claims 34-41, 44, and 45 ultimately

depend, recites a combination of elements including, *inter alia*, a passive sampling device for accumulating over a period of time micropollutants from an aquatic environment. Similarly, independent claim 58, upon which claims 62-65, 67-69, 72, and 73 ultimately depend, recites a combination of elements including, *inter alia*, a passive sampling device for accumulating over a period of time non-polar, organic micropollutants from and aquatic environment.

Katayama et al. fails to teach or suggest at least these claim elements. Further, Ho et al., which was cited only for its purported disclosure of a solid polyamphiphilic polymer, fails to remedy the deficiencies of Katayama et al. Because no combination of Katayama et al. and Ho et al. teaches or suggests every claim element, the Section 103(a) rejection of claims 34-41, 44, 45, 62-65, 67-69, 72, 73, 97-99, 101-104, 106-108, 110, 111, and 113 should be withdrawn.

Applicants also wish to note that claim 111 appears to have been inadvertently included in the Section 103(a) rejection of claims 34-41, 44, 45, 62-65, 67-69, 72, 73, 97-99, 101-104, 106-108, 110, 111, and 113. Specifically, claim 111 was listed as an allowed claim, and the Examiner provided a reasons for allowance statement with respect to claim 111.

Applicants respectively traverse the rejection of claims 43, 46, 71, 74, 90, 93, 98, 110, and 113 under 35 U.S.C. §103(a) as being unpatentable over Katayama et al. in view of Ho et al. and further in view of Markell et al. No *prima facie* case of obviousness has been established with respect to claims 43, 46, 71, 74, 90, 93, 98, 110, and 113 for at least the reason that no combination of Katayama et al., Ho et al., and Markell et al. teaches or suggests every claim element. For example, independent claim 31, upon

which claims 43 and 46 depend, recites a combination of elements including, *inter alia*, a passive sampling device for accumulating over a period of time micropollutants from an aquatic environment. Similarly, independent claim 58, upon which claims 71 and 74 depend, recites a combination of elements including, *inter alia*, a passive sampling device for accumulating over a period of time non-polar, organic micropollutants from an aquatic environment.

Katayama et al. fails to teach or suggest at least these claim elements. Further, Ho et al., which was cited only for its purported disclosure of a solid polyamphiphilic polymer, and Markell et al., which was cited only for its purported disclosure of a fibrous compressed or fused article comprising a nonwoven fibrous polymeric web, fail to remedy the deficiencies of Katayama et al. Because no combination of Katayama et al., Ho et al., and Markell et al. teaches or suggests every claim element, the Section 103(a) rejection of claims 43, 46, 71, 74, 90, 93, 98, 110, and 113 should be withdrawn.

Applicants also wish to note that claims 93 and 98 appear to have been inadvertently included in the Section 103(a) rejection of claims 43, 46, 71, 74, 90, 93, 98, 110, and 113. Specifically, claims 93 and 98 depend from allowed claim 78 and are, therefore, allowable for at least the same reasons as claim 78.

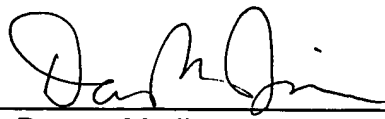
In view of the foregoing, Applicants respectfully request reconsideration and reexamination of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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